

Appl. No. 09/821,953
Atty. Docket No. 7973MR
Amdt. dated July 15, 2004
Reply to Final Rejection of June 18, 2004

REMARKS

Claims 38-42, 65-71, 74-83, 85-94 are now in the case.

Applicants have cancelled claims 43-64, 69, 72, 73 and 84 without prejudice.

Applicants may pursue the cancelled claims in a continuing application.

Applicants have added claims 90-94 to claim additional features.

Applicants have amended independent claim 38 to include the features of a textured outward surface having an Average Height Differential of at least about 0.5 mm.

Applicants have amended claims 65, 70, 74, 77, 81, 85 and 87 to correct their dependency.

Each of these amendments is supported by the specification, claims and drawings as filed. (see page 15, lines 30-35, page 21, lines 31-36, and page 22, lines 1-25 indicating that the disclosure of U.S. patent application serial No. 09/082,396, filed May 20, 1998 by Fereshtekhou et al., U.S. patent application serial No. 09/082,349 entitled NOVEL STRUCTURES USEFUL AS CLEANING SHEETS, filed May 20, 1998, by Fereshtekhou et al. and U.S. patent application serial No. 09/729,626 entitled NON-APERTURED CLEANING SHEETS HAVING NON-RANDOM MACROSCOPIC THREE-DIMENSIONAL CHARACTER, filed November 30, 2000, by Wong et al. were fully incorporated by reference).

Claim Objections

Claim 87 has been objected under 37 CFR 1.75(c), as being of improper antecedent basis form for failing to further limit the subject matter of a previous claim.

Applicants submit that claim 87 has been amended and now depends on newly added claim 90, therefore mooting the objection.

Reconsideration and withdrawal of the objection are therefore requested.

Rejections under 35 U.S.C. 112

Claims 76 and 88 have been rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement.

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The office action asserts that the feature of "the raised regions having a rounded parallelogram shape in the X-Y dimension is not supported in the specification."

Applicants submit that claim 76 has been amended and now include the features of raised regions having a rounded parallelogram shape in a plan view.

Applicants respectfully submit that at page 22, lines 22-25 of the present application it is indicated that "Preferred cleaning sheets herein also include non-apertured cleaning sheets having non-random macroscopic three-dimensional character. Such cleaning sheets are described in detail in copending U.S. Application Serial No. 09/729,626, filed November 30, 2000 by Wong et al., which is hereby incorporated herein by reference."

Applicants submit that U.S. Application Serial No. 09/729,626 has published under publication No. US 2001/0029966A1.

Applicants would like to point out that at paragraph [17] and [21] of the '966 publication it is stated that "Figure 5 is an enlarged plan view illustration of a Rounded Parallelogram Shape pattern for use in forming the raised regions of the non-apertured cleaning sheets of the present invention."

Applicants would also like to bring the Examiner's attention to paragraph [54] of the '966 publication.

The office action also asserts that the features of "a cleaning sheet being folded such that said working face faces outwardly" found in claim 88, are not supported in the specification.

Applicants respectfully disagree.

Applicants would like to bring the Examiner's attention to paragraph [0107] of the '966 publication which discloses that "Given that the non-apertured cleaning sheets of the present invention are designed such that one side, the working surface provides optimal cleaning of dust and dirt, it is desirable that consumers are instructed to use the preferred side. This is easily accomplished by packaging the cleaning sheet folded such that the working surface is on the outside as folded."

Claim 76 was also rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention.

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Applicants submit that claim 76 has been amended and now include the features of raised regions having a rounded parallelogram shape in a plan view.

It is Applicants' position that the term "rounded parallelogram shape in a plan view is clearly defined by the written disclosure and the figures of U.S. application serial No. 09/729,626 (see Figures 5 and 9 and paragraphs [17], [21] and [54] of the '966 publication).

Reconsideration and withdrawal of the rejections are therefore respectfully requested.

Rejections under 35. U.S.C. 103

Claims 38-47, 49-60, and 64-79 have been rejected under 35 U.S.C. 103(a) as being patentable over Lerner et al. '292 in view of Ngai '627.

Applicants submit that claims 43-47, 49-60 and 64 have been cancelled without prejudice therefore mooting the rejection as to these claims.

Applicants submit that independent claim 38 has been amended to include the features of now cancelled claim 64.

Applicants also submit that new independent claim 90 includes the features of now cancelled claim 73.

Applicants note that now cancelled claims 64 and 73, respectfully corresponding to amended claims 38 and newly added claim 90, have been rejected under 35 U.S.C. 103(a) as being obvious over Lerner et al. '292 in view of Ngai '627 and further in view of Drelich et al. '764.

The office action asserts that "Ngai discloses transferring a pattern from a forming support, and specifically recites U.S. Patent No. 5,098,764 to Drelich et al. for an example of usable forming supports. Drelich et al. disclose the forming support to have a height differential from peak to valley of 0.229 cm. Therefore, the average height differential of the Ngai substrate would be at least 1.5 mm.

Applicants respectfully disagree.

Applicants note that Ngai discloses that "structured surface non-woven fabrics may be formed by transferring a pattern from a forming support, which may comprise a textured forming belt or drum, for instance. An example of hydroentangling fibers supported on a

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three dimensional forming surface is described in U.S. Pat. Nos. 5,098,764 and 5,674,591.”
(See Col 2, lines 42-48)

However, as best understood by Applicants, Drelich et al. ‘764 disclose a process and apparatus to produce a nonwoven fabric having multiple openings. (see Figs. 1 and 20-36

Drelich et al. indicate that “it is an object of the present invention to produce fabrics that have excellent clarity of pattern and open areas”, “[their] new non-woven fabric comprises a multiplicity of yarn like fiber groups wherein the groups are virtually as dense and fine as spun yarns. The groups define a pre-determined pattern of openings in the final fabric. Clarity or openness of the present fabrics of the present invention is exceptional.” (see Col 2, lines 8-56)

Drelich et al. also disclose that “[a]s may be seen in [Figure 1], the fabric comprises a multiplicity of Yarn-like bundles 51, which extend between and are interconnected at junctures 52. These fiber bundles and junctures define a pattern of opening 53 with the opening having a generally square configuration.” (See Col 4, lines 55-61)

Applicants respectfully remind the Examiner that it is basic patent law that “[t]o establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation ... to modify the reference or to combine the reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant’s disclosure.” (Emphasis supplied) *In re Vaeck*, 947 F.2d 488, USPQ 2d 1438 (Fed Cir. 1991).

Applicants submit that because the Drelich et al. patent discloses a nonwoven substrate including a plurality of holes or openings, it appears that the resulting pattern on the fabric does not include peaks and valleys as presently claimed. Consequently, none of the references either alone or in combination either teach or suggest a cleaning sheet having a macroscopic three-dimensional pattern defined by peak and valleys having the Average Height Differential as claimed in claims 38 and 90.

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For the same reasons, Applicants submit that Drelich et al. teaches away from Ngai, who on several occasions, indicates that "for sanitary reasons, the wipe should be relatively impenetrable and impervious to dirt, grease, or even fecal matter." (see Col 1, lines 26-27)

Therefore, it appears contradictory to use the process of Drelich et al. to create a nonwoven substrate having multiple opening for use as the baby wipe from Ngai.

It is Applicants' position that one of ordinary skill in the art would have had no motivation to combine or modify the baby wipe disclosed by Ngai with the substrate having openings of Drelich and then modify the tack cloth for removing metallic particles of Lerner et al.

In addition, it is Applicants' position that one of ordinary skill in the art would have had no motivation to employ the process of Drelich et al. to modify the baby wipe of Ngai and then apply the polymeric additive of Lerner's cloth which is used to remove metallic particles.

Moreover "[w]hen applying 35 U.S.C. 103, the following tenets of patent law must be adhered to: (1)The claimed invention must be considered as a whole; (2)the reference must be considered as a whole and must suggest the desirability and thus the obviousness of making the contribution; (3) the reference must be viewed without the benefit of impermissible hindsight vision afforded by the claimed invention and (4) reasonable expectation of success is the standard with which obviousness is determined." (Emphasis supplied) *Hodosh v. Block Drug Co., Inc.*, 786 F.2d 1136, 1143 n.5, 229 USPQ 182, 187, n.5 (Fed. Cir. 1986)., MPEP 2141, MPEP 2141.02. In short, the "invention as a whole" test under 35 USC 103 requires the Examiner to take into consideration the presence of pattern defined by peaks and valleys—a factor not taught or suggested by neither Lerner et al., Ngai nor Drelich et al. MPEP 2141.02

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Reconsideration and withdrawal of the rejection are therefore respectfully requested.

It is submitted that all the claims are in condition for allowance. Early and favorable action on all claims is therefore requested.

If the next action is other than to allow the claims, the favor of a telephonic interview is requested with the undersigned representative.

Respectfully submitted,
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